

State of California  
Fair Political Practices Commission



# Bulletin

Vol. 25, No. 3

October 1999

## Chairman's Message

As this issue of the *Bulletin* goes to print, we at the FPPC are busily preparing for our upcoming conference on "25 Years of Political Reform: Looking Back . . . and Ahead." As many of you recall, the Political Reform Act appeared as Proposition 9 on the June 4, 1974 primary election. It passed with 70% of the vote.

The 25<sup>th</sup> anniversary of the Political Reform Act's passage is an important milestone for the voters of California. It affords us an opportunity to reflect on the significant impact the Act has had on the conduct of elections and the conduct in office of our public officials. At the same time, we at the FPPC are seizing this opportunity to look forward. Election campaigns have changed in the 25 years since the Act's passage. The drafters of the PRA certainly did not envision the advent of Internet campaigning. We hope that this 25<sup>th</sup> anniversary observance will affirm the Act's importance and provide suggestions on how it should be applied to tomorrow's e-politician.

Throughout the coming year, we will be focusing on **education, outreach and simplification**. As part of that focus, we will ask for passage of legislation that will enable us to greatly simplify our campaign forms, and move toward a standard quarterly filing system that should eliminate much of the confusion caused by the current practice of ever-changing filing dates. We also are embarking on a year-long project to simplify the conflict-of-interest regulations. Check our web site regularly for updates on these important projects.

A handwritten signature in cursive script that reads "Karen Getman".

Karen Getman, Chairman

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## Future Commission Meeting Dates

The Commission meeting dates for the rest of this year will be:

**November 5**  
**December 3**

Regular Commission meetings begin at 9:30 a.m.

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### California Fair Political Practices Commission

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Karen A. Getman, Chairman  
William Deaver, Commissioner  
Kathleen Makel, Commissioner  
Carol Scott, Commissioner

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#### Commission Meetings

Meetings are regularly scheduled for the first Friday of each month at 9:30 a.m. in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000. Additionally, past and future agendas are posted on the website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## FPPC marks ‘25 Years of Political Reform’ with luncheon, seminar

A luncheon and seminar to mark the 25<sup>th</sup> year since passage of the landmark Political Reform Act of 1974 (“PRA”) — “25 Years of Political Reform: Looking Back . . . and Ahead” — will be held **Friday, November 5 at the Capitol Plaza Holiday Inn in Sacramento**. Hosted by the state Fair Political Practices Commission, which was created by the PRA, the program will include keynote presentations and panel discussions featuring prominent political consultants and journalists.

Calling the 25<sup>th</sup> anniversary of passage of the PRA “an important milestone for the voters of California,” Commission Chairman Karen Getman said: “It affords us an opportunity to reflect on the significant impact the Act has had on the conduct of elections and the conduct in office of our public officials. At the same time, we should seize this opportunity to look forward. Election campaigns have changed — the drafters of the PRA certainly did not envision the advent of Internet campaigning and tomorrow’s ‘e-politician.’”

The luncheon will begin at **noon**, following the regular monthly meeting of the FPPC in commission headquarters at 428 J St. (5<sup>th</sup> and J Streets) adjacent to Downtown Plaza and the Holiday Inn at 300 J St., where the conference will be held. The seminar will begin at **12:30 p.m.** with a keynote dialogue featuring **Dan Schnur**, a political consultant and columnist who is communications director for the Presidential campaign of U.S. Sen. John McCain (R-Arizona), and *McClatchy Newspapers* Political Editor **John Jacobs**, author of *A Rage for Justice: The Passion and Politics of Phillip Burton*. Introduced and moderated by Getman, the keynote dialogue will focus on the successes and failures of the PRA and whether the reforms envisioned by its framers have been effective.

The keynote dialogue will be followed at **1:30 p.m.** by a panel discussion on “The Future of Political Reform and Campaign Finance in the Age of the Internet.” Panelists include **Kim Alexander** of the California Voter Foundation; **Gail Kaufman**, a political consultant and senior adviser to the Bill Bradley for President campaign; **Mark Paul**, deputy editorial page editor of the *Sacramento Bee*; **Jeff Raimundo**, a political consultant and columnist who is a partner in Townsend Raimundo Besler & Usher, and **Anthony York**, a political writer for the online magazine *Salon*. The panel will be moderated by **A.G. Block**, executive editor of the *California Journal* and State Net Publications.

Present and former commissioners and others involved in designing the PRA, which was passed by voters as Proposition 9, are expected to attend. Written and photographic records of the early years of the FPPC will be on display. Luncheon reservations can be made by contacting Sandra Johnson at (916) 322-5745 or by e-mail to [sjohnson@fppc.ca.gov](mailto:sjohnson@fppc.ca.gov). Cost for the luncheon and seminar is \$35 for early reservations, or \$45 if reservations are made after November 1. Checks should be made payable to the Fair Political Practices Commission and mailed to the FPPC at 428 J St., suite 450, Sacramento CA 95814. Please register soon if you plan to attend.

No-cost seats for the seminar are available by reservation. **A press table will be set up for reporters who wish to cover the seminar only.**

## Executive Director Bob Tribe Announces Retirement, General Counsel Steve Churchwell Resigns

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Bob Tribe, the Commission's Executive Director since 1995, announced that he will retire from that post on March 1, 2000. Tribe will continue to work part time in the Administration Division where his main responsibility will be overseeing the budget.

Steven G. Churchwell resigned on September 16, 1999, after six years as General Counsel for the California Fair Political Practices Commission.

"This has been the most rewarding and challenging job of my 17-year legal career," said Churchwell. "I've served under four chairmen and numerous commissioners. All have been committed to encouraging voluntary compliance with — and enforcing when necessary — the campaign finance, lobbying and ethics laws that make up the Political Reform Act. But it is the extremely hard-working and dedicated staff who have impressed me the most. The voters of the state can rest assured that their interests are being protected by some of the best and brightest employees at any government agency in the country."

Churchwell said he plans to take some time off and then resume the private practice of political and governmental law in Sacramento.

"While the commissioners are very sorry to see Steve leave, we recognize this is a tremendous opportunity for him," said Commission Chairman Karen Getman. "Under his leadership, the Legal Division has undertaken several significant and difficult projects. It has simplified the conflict-of interest regulations and laid the groundwork for the overall form simplification project that will be the centerpiece

of the commission's legislative proposals for the next session." Churchwell has also represented the FPPC in several major cases. He successfully argued *Griset v. FPPC*, resulting in a unanimous 1994 California Supreme Court decision upholding the public's right to know the source of political mail.

Luisa Menchaca took over responsibility as the Acting Chief of the Legal Division on September 22, 1999. Churchwell will depart the Commission sometime after completing work on transition issues.

# October Commission Meeting Summary

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## News Media Inquiry Policy Adopted, 2000 Rulemaking Calendar Proposed

The proposed rulemaking calendar for 2000 was discussed by the Commission at its October meeting. Staff was directed to bring back a revised calendar for adoption that will include prenotice discussion of proposed regulations and completion of Phase 2 of the Conflict of Interest Regulation Improvement Project within one year. Policies and guidelines for responding to news media inquiries were also adopted or reviewed.

The Commission discussed deadlines for public submission of documents to the Commission including possible amendments to regulation 18310 - Meetings and changes to the rulemaking process at its October meeting. However, Commissioners decided not to adopt regulation 18310 amendments, nor were changes made to the rulemaking process. Members of the public were strongly urged to provide documents in a timely manner to allow Commissioners sufficient time for consideration of the materials.

Draft regulations to implement legislation (SB 1753 (Schiff), ch. 923, Stats. 1998) imposing campaign disclosure requirements on CalPERS Board of Administration candidates and to include elected members in the Act's definition of "elected state officer" were considered by the Commission. The following action was taken on the regulations:

- Proposed Regulation 18451 — CalPERS Board Member Elections — Campaign Statements — Definitions was adopted.
- Proposed Regulation 18452 — Reporting Requirements was adopted.
- Proposed Regulation 18450, which would have narrowed the scope of the bill, was not

adopted and the Commission will bring to the attention of the Legislature issues raised by the inclusion of CalPERS board members in the definition of "elective officer" and "elective state office."

Other matters considered by the Commission include:

- The Commission decided not to proceed with a proposal to amend the major donor definition contained in section 82013(c) to eliminate filings for donors who contribute to just one candidate or committee. The proposal will be reviewed again after the effects of electronic filing can be analyzed.
- Adoption of the Commission's policy goals for 1999-2000 was continued to allow consideration of a memorandum to be submitted by Commissioner Scott concerning enforcement and other matters. Adoption of the 1999-2000 and 2000-2001 budgets also was continued.
- Discussion of a proposed policy regarding fines to be imposed when a respondent's conduct violates more than one provision of the Act. Staff was instructed to bring back specific examples with recommendations for how they would charge and fine cases in the areas of money laundering, conflicts, and reporting violations, should this policy be adopted.

The Commission took action in the following enforcement matters:

**Joseph Melvin Gagliardi and J & J Sporting Goods** were fined \$96,000 for concealing the true source of campaign contributions and failing to timely file a major donor campaign statement.

# October Commission Meeting Summary

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Gagliardi is the president and sole owner of J & J Sporting Goods, a retail sporting goods store. In 1998, Gagliardi and J & J Sporting Goods made a total of 48 campaign contributions to San Jose Mayoral Candidates Pat Dando and Ron Gonzales by reimbursing relatives, employees and friends. The reimbursed contributions totaled \$18,000 to Gonzales and \$6,000 to Dando. Non-disclosure of the true source of a campaign contribution undermines the disclosure provisions of the Act by depriving the electorate of essential information about who is supporting a candidate. During the time these contributions were made, the city of San Jose had contribution limits of \$500 from any person to a mayoral candidate.

In addition, by making these contributions, Gagliardi and J & J Sporting Goods qualified as a major donor committee and failed to file a major donor campaign statement. The timely filing of major donor reports is important because it informs the public about contribution patterns of large contributors.

**Yes on C in El Segundo and Carl Jacobson**, treasurer, were fined \$6,000 for failing to timely file pre-election statements and late contribution reports. The committee was primarily formed to support El Segundo Unified School District Measure C, a bond measure to provide additional school district funding, in an election held on June 3, 1997.

**BGP Airport Associates** was fined \$6,000 for making a campaign contribution of more than \$250 to an officer of an agency while a party to a proceeding before the agency, and failing to disclose the contribution on the record of the proceeding.

BGP Airport Associates (BGP) is a joint venture comprised of the Ralph M. Parsons Company, HNTB Corporation, and Parsons Brinckerhoff Construction Services, Inc. The

joint venture was formed to seek a multi-million dollar contract with Burbank-Glendale-Pasadena Airport Authority to provide program management and conceptual planning services for a replacement terminal complex and ground access system at the airport.

BGP made campaign contributions to William Paparian while he was a member of the Pasadena City Council and a commissioner for the airport authority. As a commissioner, Paparian voted to select BGP as the recipient of the contract for the replacement terminal complex, participated in the decision to approve the final contract with BGP more than two years later, and voted to approve a work order for BGP the following year.

As an applicant for, and recipient of the contract, BGP was a party to three proceedings before the airport authority. Parties to proceedings and their agents are subject to the conflict of interest provisions which impose limits on campaign contributions and prescribe disclosure requirements for proceedings involving a license, permit, or other entitlement for use.

Former Pasadena Council Member and Mayor **William Paparian** was fined \$4,500 for accepting a campaign contribution of more than \$250 from a party to a proceeding and for failing to disclose campaign contributions from a party to a proceeding, and failing to disqualify himself from voting on or participating in a matter involving that party.

While serving as mayor, Paparian was appointed by the City Council to serve simultaneously as one of nine commissioners who oversee the Burbank-Glendale-Pasadena Airport Authority. As an appointed member of the airport authority, Paparian was subject to the conflict of interest provisions which impose limits on campaign contributions and prescribe disclosure and disqualification requirements for

# October Commission Meeting Summary

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members of appointed boards and commissions who make decisions with respect to licenses, permits or other entitlements for use.

As a commissioner, Paparian participated in three proceedings involving BGP Airport Associates (BGP), a joint venture who had contributed more than \$250 to his campaign committee. Paparian voted to select BGP as the recipient of the contract for the replacement terminal complex, participated in the decision to approve the final contract with BGP more than two years later, and voted to approve a work order for BGP the following year.

**Burbank-Glendale-Pasadena Airport Authority** was fined \$3,000 for failing to timely file an independent expenditure report and a late independent expenditure report. The airport authority spent approximately \$9,703.19 to send out a mailer containing express advocacy in opposition to a ballot measure imposing a transient tax on the April 8, 1997, ballot.

The mailer, taken as a whole, unambiguously urged the voters to vote against the initiative, and included such statements as “voters should consider the discriminatory character of the Transient Parking Tax” and “We believe that Burbank’s imposition of a tax on airport parking fees constitutes an illegal diversion of airport revenues.” The payments for this mailer fell within the definition of independent expenditure under the Act, and the airport authority qualified as an independent expenditure committee.

**Lorraine Cervantes and the Committee to Elect Lorraine Cervantes** were fined \$2,500 for failure to file pre-election and semi-annual campaign disclosure statements. Cervantes was a candidate for Compton City Council in the April 18, 1995, Primary Election.

**Taxpayers for Better Education PAC and F. Laurence Scott, Jr.**, treasurer, was fined \$2,000 for failure to file late contribution reports for eleven contributions made during late reporting periods. These violations were found during an audit by the Franchise Tax Board for the committee’s activity during January 1, 1996, through December 31, 1996.

**Laurence Steffan and Committee to Elect Laurence H. Steffan El Dorado County Superior Court Judge Department 2** were fined \$1,500 for failure to maintain campaign records. Steffan was a candidate for El Dorado County Superior Court during the March 1996 Primary Election.

In 1997 he was contacted by a Franchise Tax Board auditor and told of a pending audit. During this conversation, Steffan stated that he had thrown all of his records away after his last campaign statement was filed, but that he could request bank statements and canceled checks from the bank. The auditor contacted Steffan on at least ten separate occasions requesting the documents; however, the requested records were never provided.

**Eleanor Sanchez Gatica and the Committee to Elect Eleanor Gatica** were fined \$500 for failing to timely file a semi-annual campaign disclosure statement. Gatica was a candidate for Maywood City Council in the March 4, 1997, General Election.

**Ron Haro**, Minarets Joint Union High School District Governing Board Member, was fined \$300 for failing to timely file his 1998 annual statement of economic interests.

# September Commission Meeting Summary

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## Major Donor Policy, Foreign Principal Ballot Contribution Advice Considered

The Commission set policy for handling requests for civil actions against major donors with a streamlined prosecution program for major donor committees who fail to file semi-annual campaign statements and late contribution reports at its September 10 meeting. For unreported contribution amounts of \$49,000 or less, major donors will be fined according to the chart below. Major donors making more than \$49,000 in unreported contributions will be fined according to standard enforcement procedures.

Violation (type of statement not filed)	Total Contributions Under \$25,000	Total Contributions \$25,000- \$49,000
Semi-Annual	\$400	\$600
Late Contribution	\$600	\$1,000

A major donor is an individual or entity that makes contributions to candidates or committees totaling \$10,000 or more in a calendar year. Major donor committees do not receive contributions. Corporations and individuals are common types of major donors.

A request to rescind advice letters (A-99-200 and A-99-200a) prohibiting U.S. citizens domiciled abroad (foreign principals) from making political contributions and expenditures in connection with California ballot measures was rejected by the Commission at this meeting. The Commission agreed to continue working with the Secretary of State's office to pursue legislative changes to these provisions.

Other actions taken by the Commission at this meeting include:

- Opinion O-99-156 (*Tobias*) regarding application of the legally required participation exception when vacancies exist in the California Integrated Waste Management Board was approved.
- The Commission approved proceeding with legislative changes as the second phase of the campaign reporting simplification program. The Commission also affirmed its support of SB 1025.

The Commission took action in the following enforcement matters:

**Rudy G. Favila**, an Ontario City Council and San Bernardino County Supervisor candidate, his controlled committees, and Janice E. Phillips, his treasurer, were fined \$8,000 for numerous campaign reporting and recordkeeping violations. A Commission staff audit for reports filed from January 1, 1993, through June 30, 1996, revealed Favila had failed to timely file pre-election and semi-annual campaign statements; failed to disclose receipt of campaign contributions; failed to timely file late contribution reports; failed to disclose occupation and employer information for contributors; failed to disclose expenditures and subvendor information; made expenditures of \$100 or more in cash; and failed to maintain records.

Favila was elected to the Ontario City Council, where he served from 1992 to 1996. In 1994, Favila unsuccessfully ran for San Bernardino County Supervisor, and in November 1996, Favila lost his bid for re-election to the Ontario City Council.



# August Commission Meeting Summary

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## September Enforcement Actions —

*Continued from page 8*

**Cecilia Larios**, Perris City Councilmember, her controlled committee, and Javier Murillo, treasurer, were fined \$1,500 for failing to file a semi-annual campaign statement and failing to timely file an assuming office statement of economic interests.

Larios was elected to the Perris City Council on November 4, 1997, and assumed office on November 24, 1997. The unfiled statements were not filed until after the Perris City Clerk and the Commission's Enforcement Division sent 17 letters, made three personal telephone calls, and a probable cause report was served.

## **New and Revised Campaign Forms Approved, Reconsideration of Enforcement Fine Rejected at August Meeting**

A motion was made to schedule for reconsideration the \$300,000 fine imposed at the Commission's July meeting in the Matter of Chris Miller. The motion for reconsideration failed on a 2-2 vote. The Commission also discussed policy issues raised when a respondent is facing both criminal and civil prosecution for the same violations.

The Commission voted to issue an opinion at the September meeting concerning the rule of "legally required participation" to Kathryn J. Tobias on behalf of members of the California Integrated Waste Management Board.

Staff was authorized to continue with Phase II of the conflict of interest improvement project.

The following campaign reporting regulations and forms were approved:

- Amendment to Regulation 18404— Termination of Candidates' and Committees' Filing Requirements
- Adoption of Regulation 18421.2— Street Address

- Adoption of Regulation 18421.6— Reporting of Accrued Expenses
- Adoption of Regulation 18426.1— Assistant Treasurers
- Form 410— Statement of Organization
- Form 460— Recipient Committee Campaign Statement
- Form 461— Major Donor and Independent Expenditure Committee Campaign Statement
- Form 496— Late Independent Expenditure Report
- Form 497— Late Contribution Report
- Form 498— Late Payment Report (Slate Mailer Organization)

The Commission considered a request to rescind advice letters (A-99-200 and A-99-200a) and/or to issue an opinion on the prohibition on U.S. citizens domiciled abroad (foreign principals) from making political contributions and expenditures in connection with ballot measures; or alternatively, to support urgency legislation amending section 85320. The matter was continued to the September meeting for further discussion.

The Commission took action in the following enforcement matters:

**Thomas Christopher Almeida** was fined \$14,000 for failing to disclose various financial interests over several years on his annual statements of economic interests. Almeida was an administrative manager at the California State Department of Education, in the Career Vocational Education Division, between 1992 and 1995. During that time, he failed to disclose his interests in Automated Learning Systems, a company in which he attained an investment interest in 1992. He also failed to disclose Sandra Sarvis, an educational consultant, as a source of income and loans on his 1994 annual statement; CAVICA Leadership Foundation as a source of income on his 1994 and 1995

# August Commission Meeting Summary

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statements; and his interests in and income from Educational Services and Policies, Inc., on his 1995 annual statement.

**Gerald R. Eaves**, a San Bernardino County Supervisor and Member of the Inland Valley Development Agency (IVDA) was fined \$12,500 for failing to disclose contributions received and failing to disqualify himself from participating and voting on matters before IVDA.

IVDA is a regional joint powers authority composed of elected officials from the cities of San Bernardino, Loma Linda, Colton and the County of San Bernardino. IVDA was created to oversee the development and reuse of Norton Air Force Base which was closed by the federal government.

As an appointed member of IVDA, Eaves is subject to the conflict of interest provisions of section 84308, which imposes limitations on campaign contributions and prescribes disclosure and disqualification requirements for members of appointed boards and commissions who make decisions with respect to licenses, permits or other entitlements for use.

During 1994 and 1995, Eaves participated and voted on the award of IVDA contracts involving Daniel, Mann, Johnson & Mendenhall; URS Consultants, Inc.; Los Padrinos of Southern California, Inc.; and the Matich Corporation. All of these entities had made campaign contributions to the Eaves for Supervisor committee.

Los Angeles City Planning Commissioner **Marna Schnabel** was fined \$6,000 for failing to disclose all of her economic interests on her 1995, 1996 and 1997 annual statements of economic interests.

Schnabel failed to disclose 77 investment interests on her 1995 annual statement; 140 investment interests on her 1996 annual statement; and 127 investment interests on her 1997 annual statement.

Former Los Angeles Care Health Plan member **Gail Margolis** was fined \$2,500 for failing to timely file initial and leaving office statement of economic interests.

Assemblyman **Scott Baugh** was fined \$2,000 for failing to timely file a late contribution report in connection with the 1998 general election. The Baugh for Assembly '98 committee received a \$30,000 contribution from Phillip Morris, Inc., during the late contribution reporting period for the 1998 general election.

**Charles Edward Penna**, former Chief Building Inspector for the City of Lompoc, was fined \$2,000 for inspecting and approving a final roofing permit for Tahitian Village Apartments, an entity which was a source of his income.

Penna was the chief building inspector from May 1980 to October 1997. He managed Tahitian Village Apartments from early 1970 to August 1997. He received free rent and salary for his management services. Penna also failed to disclose Tahitian Village as a source of income on his 1992, 1993, 1994 and initially on his 1995 annual statements of economic interests.

The Act prohibits public officials from making, participating in or attempting to influence governmental decisions that involve their sources of income.

**Citizens for Honest Government and Cecilia B. Hernandez**, treasurer, were fined \$1,500 for failure to timely file the first and second pre-election statements required to be filed in connection with Colton municipal elections in 1996. Citizens for Honest Government was a city general purpose committee, formed in April of 1996, to support and oppose candidates and measures in Colton.

### **FEC Conference Scheduled in San Francisco**

The Federal Election Commission will hold a regional conference this Fall in San Francisco for U.S. House and U.S. Senate campaigns, political party committees and political action committees (PACs) sponsored by corporations, labor organizations and trade associations that will offer information on the following topics:

- Basic and advanced workshops on the federal campaign finance law;
- An opportunity to discuss problems and questions with FEC Commissioners and staff;
- Demonstrations of the FEC's new electronic filing program; and
- A briefing on applicable tax laws by IRS staff.

**When:** November 15-17, 1999

**Where:** Grand Hyatt, San Francisco

**Cost:** \$250 registration fee (*covers the cost of the conference, materials, breakfasts, lunch and refreshments.*)

**Registration:** The fee and registration form must be postmarked by November 1. A late registration fee of \$10 will be added effective November 2. Call (800)246-7277 or e-mail [tsylvester@worldnet.att.net](mailto:tsylvester@worldnet.att.net) for additional registration information.

*Call 1(800) 424-9530, press 1, or  
(202) 694-1100 for program information. The  
invitation may be downloaded from  
[www.fec.gov/pages/infosvc.htm](http://www.fec.gov/pages/infosvc.htm)*

### **Proposition 208 Status**

On August 13, 1999, the parties to the Proposition 208 litigation returned to the Federal District Court for a status conference, following remand of the case from the Ninth Circuit Court of Appeals. The appellate court directed the district court to conduct further evidentiary hearings, and to issue a final judgment on all challenged provisions. The preliminary injunction issued by the district court in 1998 was not based on findings as to all of the provisions under attack.

The injunction is expected to remain in effect until the district court proceedings are completed and the matter returns to the Ninth Circuit for final disposition. The parties disagree on the necessity or extent of any further trial, and the district court has set a hearing for November 10, 1999, when Judge Karlton will decide what issues remain to be tried. It is unlikely that any further trial will be scheduled earlier than mid-summer, 2000.

# Legislation Update

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As the year's legislative session draws to a close, a wide array of legislation affecting the Political Reform Act was signed by Governor Davis. A brief summary of each bill is outlined below:

**SB 50** (Johnson) - Creates an additional campaign filing during 1999 and establishes an earlier deadline for the December 31, 1999, semi-annual statement in connection with the 2000 statewide primary which has been advanced from June 6, 2000, to March 7, 2000.

The most recent amendments clarify that local candidates and committees are subject to the additional 1999 filing and the earlier semi-annual deadline if a city or county is holding an election on March 7, the same day as the primary election, as well as for state PACs, major donors, independent expenditure committees, and slate mailer organizations active during 1999 in connection with the March 7 statewide primary. (*Ch. 158, Stats 1999. Effective immediately.*)

**SB 104** (Brulte) - Exempts from the one-year "revolving door" ban an official holding an elective office of a local government agency if the appearance or communication of that official is for the purpose of influencing legislative or administrative action on behalf of the local government agency. (*Ch. 10, Stats 1999. Effective April 15, 1999.*)

**SB 342** (McPherson) - Would change the membership parameters of the Bipartisan ("McPherson") Commission on the Political Reform Act by specifying that no more than three "political" attorneys can be appointed by elected officials, thereby allowing the other appointing body, the FPPC, to select "political" attorneys regardless of who the elected officials appointed. In addition, the bill also extends the time-frame for the Commission to complete its work requiring the report of findings be presented by

June 30, 2000 and sunset on January 1, 2001. (*Ch. 342, Stats. 1999. Effective January 1, 2000.*)

**SB 658** (Karnette) - Makes necessary changes to the Online Disclosure Act of 1997 to conform with the date change of the state primary election, as well as other clarifying changes. (*Ch. 433, Stats 1999. Effective January 1, 2000.*)

**SB 813** (Murray) - Would require the FPPC to state in writing its reasons for rejecting the decision of an administrative law judge. (*Ch. 297, Stats 1999. Effective January 1, 2000.*)

**SB 1024** (Johnson) - Requires the Secretary of State to post on its on-line disclosure system the identification number of every person, entity or committee that has filed a campaign statement. (*Ch. 208, Stats. 1999. Effective January 1, 2000.*)

**SB 1025** (Johnson) - Requires the Secretary of State to expand its on-line disclosure system to include a directory of lobbyists/firms/employers; makes technical changes to parts of the Act requiring certain candidates and committees to file statements on specified dates; and requires the FPPC to publish the Act and provide copies to the government and public. (*Ch. 855, Stats 1999. Effective January 1, 2000.*)

**SB 1208** (Elections Cmte.) - Repeals the sunset date of January 1, 1999, of the requirement that the Legislative Analyst prepare a concise summary of the general meaning and effect of "yes" or "no" votes on each state measure. The bill also makes provisions for the timing and procedure for filling vacancies in an elective office on the governing board of a special district. (*Ch. 312, Stats 1999. Effective January 1, 2000.*)

## Legislation Update —

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**AB 1274** (Frusetta) - Would change the amount of time allowed the civil prosecutor to review a complaint before determining whether or not to proceed with a civil action against a person suspected of violating the Political Reform Act from two 40-day periods totaling 80 days to one period of 120 days. In addition, the proposal would provide that the statute of limitations is tolled as to the person who filed the complaint with the FPPC. (*Ch. 577, Stats 1999. Effective immediately.*)

**AB 1414** (Papan) - Prohibits the FPPC from violating the First or Fourteenth Amendments to the U.S. Constitution. As amended, this urgency measure provides that the Commission shall take no action to implement the Political Reform Act in a manner that would abridge constitutional guarantees of freedom of speech; deny any person of life, liberty, or property without due process of law; or deny any person the equal protection of the laws. (*Ch. 225, Stats 1999. Effective January 1, 2000.*)

**AB 1692** (Con. Pro.) - Amends the APA to clarify that an agency has 100 days from the delivery of the administrative law judge's proposed decision to adopt or reject the decision. In the event the proposed decision is rejected, the agency shall have an additional 100 days to issue a final decision. (*Ch. 339, Stats 1999. Effective January 1, 2000.*)

## SOS Electronic Filing Update

Beginning with the pre-election statements required to be filed in connection with the March 7, 2000, primary election, the following filers must file electronically if \$100,000 has been raised or spent from January 1, 1999, through the closing dates for the pre-election statements (January 22, 2000, and February 19, 2000), or June 30, 2000. Starting on July 1, 2000, the filing threshold drops to \$50,000 for the period beginning January 1, 2000. **Paper filings are required to be filed in addition to electronically-filed statements.**

- Elective state offices
- State ballot measure committees
- Committees supporting/opposing state candidates and measures
- State general purpose recipient committees
- State slate mailer organizations

Major donors and independent expenditure committees may also trigger electronic filing requirements during the late contribution reporting period if they trigger the thresholds indicated above for contributions and expenditures made beginning January 1, 2000.

Lobbying filers with reportable payments of \$100,000 must file electronically for the first quarterly statement in 2000. Effective July 1, 2000, the threshold drops to \$5,000.

The Secretary of State is in the process of certifying vendors who are developing software for electronic filing. In addition, any filer may develop his or her own program using the file format specifications published on the Secretary of State's website. The program must be certified by the Secretary of State prior to filing any reports. Check the Secretary of State's website ([www.ss.ca.gov/prd/prd.htm](http://www.ss.ca.gov/prd/prd.htm)) or phone (916)653-6224 for information about electronic filing and the certification process.

# Clerk's Corner

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## New and Revised Campaign Forms

The Commission approved the following new campaign forms at August Commission meeting:

- Form 460, Recipient Committee Campaign Statement (*This new form replaces the Forms 419, 420 and 490.*)
- Form 498, Late Payment Report (*Used by slate mailer organizations to disclose late payments.*)

The Commission also approved revisions to following forms:

- Form 410, Statement of Organization
- Form 461, Independent Expenditure Committee and Major Donor Committee Campaign Statement
- Form 496, Late Independent Expenditure Report
- Form 497, Late Contribution Report

A packet containing masters and explanations of the new and revised forms was sent to all city and county campaign filing officers after the August meeting. Please contact us at (916)322-5660 if you did not receive this mailing. The new forms are also available on our website ([www.fppc.ca.gov](http://www.fppc.ca.gov)).

## SOS Recipient Committee Filings

Beginning with the January 1, 2000, filing period, all candidates and committees who have been filing original campaign statements, Forms 419, 420 or 490, with the Secretary of State must use the Form 460; otherwise, the Secretary of State's Office will request filers to amend statements if the Forms 419, 420 or 490 are used.

## Common Campaign-Related Questions and Answers

- The new Form 460 does not include an allocation page for reporting a candidate's contributions or independent expenditures from personal funds to other candidates or ballot measure committees. Where are these payments reported.

A candidate who contributes \$10,000 or more or makes independent expenditures of \$1,000 or more in a calendar year from personal funds must report the contributions on a Form 461 - Independent Expenditure Committee and Major Donor Committee Campaign Statement.

- Must a candidate who raises/spends less than \$1,000 (and does not have a controlled campaign committee) in 1999 for the March 2000 election file a Form 470 for 1999?

Yes, the candidate must file a Form 470 by January 10, 2000, for the 1999 activity. If the candidate will not raise or spend \$1,000 for the March 2000 election, the candidate must file **another** Form 470 covering 2000 no later than January 27, 2000.

# Clerk's Corner

## Form 700 Candidate Statements for the March 2000 Election

All of the candidates listed below (including incumbents) are required to file candidate statements no later than the final filing deadline for their declaration of candidacy:

- State Senate
- State Assembly
- Judges
- Board of Supervisors
- Mayors
- City Council Members
- County and City Treasurers
- District Attorneys
- Elected City Attorneys
- Candidates Required to File Statements Pursuant to a Conflict of Interest Code.

Incumbents who are candidates in the March 2000 election are also required to file 1999 annual statements in March or April 2000 even though they recently filed a candidate statement. Both statements are required because the period covered for reporting financial interests on the annual statement is January 1, 1999, through December 31, 1999, in most cases. The candidate statement only requires reporting those investments, interests in real property and business positions held on the date of filing the declaration of candidacy and income (including loans and gifts) received 12 months prior to filing the candidate statement.

To bridge the gap between the reporting periods and eliminate possibly needless and repetitive filings by incumbent candidates, the Commission will be distributing a Form 700 Certification which incumbents may sign and file in lieu of a regular Form 700 annual statement. By signing this certification, the filer is verifying that either the candidate statement accurately reflects the reporting period required by the annual statement or that any attached amendments complete the filing. In late December, the Commission will distribute a master Form 700 certification along with the 1999/2000 Form 700 and a factsheet for filers.

### *Question of the Month*

**Because an incumbent city council member is running for state assembly in March 2000, she files her candidate statement with the registrar of voters office rather than the city clerk. However, her Form 700 certification statement (certifying that her candidate statement is either accurate or else amended by attached schedules) is filed with the city clerk. Since the candidate statement was not required to be filed with the city clerk, how will the city clerk obtain the complete filing including the candidate statement?**

Since the Commission is the filing officer for both the annual and candidate statements, we will forward a copy of the candidate statement to the city clerk.

## Candidate/Treasurer Workshops

These two hour workshops, conducted by the Technical Assistance Division, are tailored to assist candidates and treasurers of candidate controlled committees involved in March 2000 elections. Mass mailing identification requirements will be discussed in addition to campaign disclosure provisions and prohibitions. Campaign forms will also be reviewed.

The workshops are geared to campaigns that will raise over \$1,000. However, all candidates are welcome and encouraged to attend.

Reservations Required\*

◆◆◆◆

Free — Sign up today! 916/322-5660, press 3

**See below for locations nearest you!**

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◆ *City of Sacramento* ◆

Monday, December 13<sup>th</sup>

7:00 p.m. - 9:00 p.m.

Fair Political Practices Commission  
428 J Street, 8<sup>th</sup> Floor Hearing Room  
Sacramento, CA

◆ *City of Norwalk* ◆

Tuesday, December 14<sup>th</sup>

1:00 p.m. - 3:00 p.m.

Office of the Los Angeles Registrar of Voters  
12400 Imperial Highway  
7<sup>th</sup> Floor Conference Room  
Norwalk, CA

◆ *City of Whittier* ◆

Wednesday, December 15<sup>th</sup>

7:00 p.m. - 9:00 p.m.

Senior Center  
13225 Walnut Avenue  
Whittier, CA

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◆ *County of San Diego* ◆

Thursday, December 16<sup>th</sup>

7:00 p.m. - 9:00 p.m.

Office of the San Diego Registrar of Voters  
5201 Ruffin Road  
Planning Department, Suite B  
San Diego, CA

◆ *City of Oakland* ◆

Monday, December 20<sup>th</sup>

7:00 p.m. - 9:00 p.m.

One City Hall  
Hearing Room 3  
Oakland, CA

\* *Cancellation Notice:* A seminar may be canceled due to lack of reservations. Be sure to sign up so that you can be notified of changes or cancellations.



# Mark Your Calendar...

## Lobbying Ethics Orientation

Lobbyists are required to attend an ethics orientation course as a condition of certification. Under legislation effective January 1, 1998, lobbyists who registered to lobby during the 1997-1998 Regular Session of the Legislature were required to complete the ethics orientation course no later than June 30, 1999. New lobbyists must complete ethics orientation within 12 months of registration. Lobbyists who fail to comply with these deadlines are prohibited from acting as a lobbyist and may be subject to criminal penalties and substantial fines.

The Assembly Legislative Ethics Committee and the Senate Ethics Committee have scheduled the course for:

**Who:** All lobbyists who have not taken the course in the past 12 months. (The last course was offered June 18, 1999.)

**When:** **Wednesday, November 17, 1999**  
10:00 a.m. - noon  
(Sign up deadline is November, 12, 1999)

**Where:** Sacramento Convention Center  
1030 15<sup>th</sup> Street, Room 301

**Cost:** \$10 per person (*Advance sign-up and payment are required.*)

### **Advance**

**Sign-up:** Return completed form by the sign-up deadline to:

Senate Committee on Legislative Ethics  
Room 238, 1020 N Street  
Sacramento, CA 95814

**Please call (916) 324-6929 for more information.**

## Campaign Filing Officer Workshop

- ◆ Overview filing officer duties
- ◆ Review of Campaign Forms

**Thursday, November 18**

Paso Robles  
Conference Center  
1000 Spring Street  
10 a.m. to 12 noon

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## Advice Summaries

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Formal written advice does not constitute an opinion of the Commission nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided is limited to the requestor and to the specific facts contained in the formal written advice.

Informal assistance is also provided to persons whose duties under the act are in question. In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending.

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." (See section 83114 and regulation 18329 for more information.)

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### Campaign

**Earl P. Garrett**  
**Reform Party of California**  
**Dated June 22, 1999**  
**Our File Number: A-99-098**

A donation made independently to a third party by members of a recipient committee, which is not made at the behest of the committee and does not flow through the committee bank account, is neither an expenditure nor a contribution from the committee.

**Joyce M. Hicks**  
**City of Oakland**  
**Dated June 16, 1999**  
**Our File Number: I-99-120**

The letter discusses officeholder accounts and deposit of campaign contributions in the context of Oakland's local campaign ordinance. Under state law, an officeholder may maintain his or her campaign committee and account from the most recent election until all debts from that election are paid off, and may open a new committee and account for a future election to use for officeholder contributions and expenditures. This letter supersedes the *Hicks* Advice Letter, No. I-95-331, in its entirety.

**The Honorable Jan Goldsmith**  
**California Superior Court**  
**Dated July 1, 1999**  
**Our File Number: A-99-141**

The Act does not prohibit a judge from raising funds to retire an existing campaign debt. Also, funds may be transferred between or among campaign bank accounts so long as there are no contribution limits in place.

**David Bauer**  
**Sacramento**  
**Dated July 7, 1999**  
**Our File Number: A-99-150**

Two primarily formed committees (one controlled by an elected official), both attempting to qualify the same measure for the ballot, which do not make joint decisions on expenditures are not required to aggregate contributions received from the same source, nor expenditures made for the same goods or services, on their reporting forms even though they may communicate their campaign strategies.

**Pat Davison**  
**People for the USA**  
**Dated July 29, 1999**  
**Our File Number: A-99-167**

If an organization receives contributions totaling \$1,000 or more in a calendar year for activities that expressly advocate the defeat of clearly identified ballot measures not being voted upon in the same election, it would qualify as a general purpose ballot measure committee.

### Campaign (continued)

**Kelly Van Foeken**  
**Knight & Associates**  
**Dated July 16, 1999**  
**Our File Number: I-99-166**

A general purpose committee may receive tangible items from its sponsor or other party to be used as gifts for contributors as part of a contributor incentive program. The tangible gifts are reported as a non-monetary contribution. The committee may also purchase gifts to be used for the same purpose.

**Jeanne Bunch**  
**City of Escondido**  
**Dated June 23, 1999**  
**Our File Number: I-99-183**

This letter provides a campaign statement filing schedule for a city ballot measure election (Proposition A) on August 17, 1999. The first semi-annual statement may be combined with the first pre-election statement.

**Joseph Canciamilla**  
**Contra Costa County**  
**Dated July 22, 1999**  
**Our File Number: A-99-184**

Officeholder accounts are discussed in the context of Contra Costa County's local ordinance. Under the state's one bank account rule (Section 85201) and Regulation 18525, an incumbent member of the board of supervisors may use the committee and bank account from his or her most recent election for officeholder contributions and expenditures, and may set up a new campaign committee and account for the upcoming election.

**Armando Gomez**  
**City and County**  
**of San Francisco**  
**Dated July 21, 1999**  
**Our File Number: I-99-192**

This letter discusses filing requirements for a candidate who filed a Form 410, Statement of Organization, and who subsequently did not raise or spend \$1,000 or more during the calendar year in connection with the election. There is also a discussion of a filing officer's duty to notify candidates of their obligation to file campaign statements.

**E. Ken Tokutomi**  
**Committee to Elect Jim Johnston**  
**Dated July 29, 1999**  
**Our File Number: I-99-194**

A candidate may use campaign funds to print "baseball" type cards containing campaign information. The Act does not cover the legality of whether the cards may be used to award cash prizes based on preprinted numbers on the cards, although the Act does prohibit use of campaign funds to make gifts unless directly related to a political, legislative, or governmental purpose.

**Robert E. Leidigh**  
**Olson, Hagel, Leidigh,**  
**Waters & Fishburn**  
**Dated July 20, 1999**  
**Our File Number: A-99-200**

A U.S. citizen domiciled outside of the U.S. may not make contributions or expenditures in connection with a state or local ballot measure.

**Robert E. Leidigh**  
**Olson, Hagel, Leidigh,**  
**Waters & Fishburn**  
**Dated July 22, 1999**  
**Our File Number: A-99-200a**

A U.S. citizen domiciled abroad may not make contributions or expenditures in connection with state or local ballot measures. His physical presence in the U.S. would not change this advice.

# Advice Summaries

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## Campaign (continued)

**Chris Lavin**  
**Oakland**

**Dated July 20, 1999**  
**Our File Number: A-99-201**

Credit card transaction fees charged by credit card companies need not be itemized unless the campaign expends \$100 or more to any one company for these fees. Raising contributions via the Internet is not prohibited, as long as all the reporting requirements are met; the entire amount charged to a contributor's credit card is reported as the contribution; the date of authorization is the date the contribution is received; in addition, the contributor's name, address, occupation, and employer are required.

**Robert A. Wieckowski**  
**Fremont**

**Dated August 11, 1999**  
**Our File Number: A-99-206**

The surplus campaign funds from a candidate's unsuccessful 1998 city council race may only be used for those purposes set forth in Section 89519; these purposes do not include payment of fees for a political campaign management course.

**David L. Gould**  
**Board of Equalization**  
**Dated September 24, 1999**  
**Our File Number: A-99-241**

A candidate may use surplus funds to pay campaign debts of his other committee, if the debts existed before the funds became surplus. Surplus funds may be donated to a Democratic club, if the club is a nonprofit corporation or a committee.

**Julia L. Wu**  
**Los Angeles Community**  
**College District**  
**Dated September 14, 1999**  
**Our File Number: A-99-248**

While using surplus funds to offset expenses incurred while sitting on community advisory boards/commissions is a very noble purpose, the use of surplus funds is quite restrictive. It would not be permissible to use surplus funds for this purpose.

## Conflicts of Interest

**Scott C. Smith**  
**City of Santee**  
**Dated June 9, 1999**  
**Our File Number: A-99-001**

A city councilmember who owns a coffee shop in a shopping center does not have a conflict of interest in a decision regarding a new shopping center because the decision will not have a reasonably foreseeable material financial effect on the councilmember's business or lease.

**George C. Thacher**  
**City of Pacific Grove**  
**Dated July 20, 1999**  
**Our File Number: A-99-115**

This letter discusses whether planning commissioners may participate in decisions to amend zoning regulations. It addresses whether the public generally exception applies to the decisions.

**Nanci Parker**  
**City of Arroyo Grande**  
**Dated August 18, 1999**  
**Our File Number: A-99-116**

A public official may participate in rezoning and annexation decisions, unless a decision will have a material financial effect on a corporation that is a source of income to the official due to the payment of settlement funds.

### Conflicts of Interest (continued)

Anne Stausboll  
Office of the Treasurer  
Dated July 28, 1999  
Our File Number: I-99-128

This letter advises that Section 87103(c) excludes from the category “source of income” commercial lenders which provide loans of any size or form. This letter supersedes the following letters to the extent that they provide advice contrary to the conclusion of this letter: *Rishe* Advice Letter, No. A-92-521; *Hawkins* Advice Letter, No. A-93-154; *Esselstein* Advice Letter, No. A-93-468; *Alperin* Advice Letter, No. I-94-340; *Sharkey* Advice Letter, No. A-96-029; *Davis* Advice Letter, No. A-97-468; *Wannenmacher* Advice Letter, No. I-98-225; and *Black* Advice Letter, No. A-99-010.

Martha McClure  
County of Del Norte  
Dated June 22, 1999  
Our File Number: A-99-138

Provided there is no personal financial effect on the public official, the official is not prohibited from participating in decisions involving legislation that would grant funds to a nonprofit corporation where the public official sits on the board of directors.

David J. Weiland  
City of Mendota  
Dated June 22, 1999  
Our File Number: I-99-140

The Act does not forbid business activity or employment. However, engaging in business or accepting employment may create economic interests which create prospective conflict of interest issues.

Allen King  
City of Weed  
Dated June 23, 1999  
Our File Number: I-99-145

To be a source of income of \$250 or more to the official, a city employee must have provided \$333 or more to a business owner by the official and her spouse (including \$167 attributed to the official as half owner, and \$83 attributed to the official as community property). This letter supersedes the *Gallagher* Advice Letter, No. A-95-220, to the extent that it is inconsistent with this advice.

Carol Dean  
City of Santa Rosa  
Dated July 6, 1999  
Our File Number: I-99-152

A public official may not make, participate in making, or use his or her official position to influence decisions that will either result in his or her spouse’s hiring, firing, demotion, discipline, or the setting of his or her spouse’s salary to a different level than other employees in the same job classification, or result in the spouse’s income, expenses, assets, or liabilities increasing by \$250 in a 12-month period. This letter also discusses when an official would need to disqualify as a city councilmember from decisions regarding a neighborhood association where the official serves as president.

Michael Jenkins  
City of Diamond Bar  
Dated June 29, 1999  
Our File Number: A-99-153

Decisions on litigation, and a lobbying campaign against the expansion of a state custodial facility, would have foreseeable economic effects on nearby properties. The Commission cannot advise whether the appraiser must include an analysis of “comparables” in the appraisal on which the public official may rely.

# Advice Summaries

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## Conflicts of Interest (continued)

**Anthony P. Condotti**  
**Lompico County Water District**  
**Dated July 9, 1999**  
**Our File Number: A-99-154**

This letter analyzes conflict of interest issues in different fact situations of two members of the county water district facing decisions about new connection fees.

**Ardis J. Troedson**  
**Napa County Children and**  
**Families First Commission**  
**Dated August 30, 1999**  
**Our File Number: A-99-160**

Because a nonprofit organization is a source of income to a public official, the official will be disqualified from participating in any decision that will have a material financial effect on the nonprofit organization, unless the public generally exception applies.

**Kathleen A. Larocque**  
**County of Sonoma**  
**Dated July 19, 1999**  
**Our File Number: I-99-161**

A supervisor may not vote to amend the local campaign finance ordinance if the decision will have a personal financial effect on the supervisor. This inquiry is a question of fact.

**Robin L. Clauson**  
**City of Newport Beach**  
**Dated July 1, 1999**  
**Our File Number: I-99-164**

Two city leases expiring next year may open up public land for other, unspecified uses. Until details of those potential uses are known, it is not possible to determine if any decisions on those uses might have foreseeable financial effects on the public official's residential real property.

**Marguerite Battersby**  
**City of Yucaipa**  
**Dated July 13, 1999**  
**Our File Number: I-99-172**

A public official will acquire a purchase option on real property if he places a deposit on a new home in the development. An option is an interest in real property for purposes of the Act's conflict of interest provisions.

**Steven B. Quintanilla**  
**City of Cathedral City**  
**Dated July 22, 1999**  
**Our File Number: A-99-174**

A decision to create an assessment district would affect a significant segment of the public in the same manner that it would affect the public official. Therefore, even though the public official has a material financial interest impacted by the decision, he may participate in the decision.

**Bob Florence**  
**State Controller's Office**  
**Dated August 12, 1999**  
**Our File Number: A-99-179**

This letter analyzes "influencing" a governmental decision regarding software procurement by a state agency where a supervisor's subordinates, under his direction, make recommendations to a parallel chain-of-command.

**Michael R. Woods**  
**City of Pittsburg**  
**Dated July 16, 1999**  
**Our File Number: A-99-182**

A councilmember does not have a potentially disqualifying financial interest in salary paid by the city for his services as a councilmember.

### Conflicts of Interest (continued)

**J. Kenneth Brown**  
City of La Cañada Flintridge  
Dated July 13, 1999  
Our File Number: A-99-186

City councilmembers may participate in establishing a sewer district because the effect on their property is indistinguishable from the effect on the public generally.

**Roy A. Hanley**  
City of Atascadero  
Dated July 7, 1999  
Our File Number: A-99-187

A city councilmember, who is a real estate agent, does not have a conflict of interest in a decision to approve a project to create 30 small homes for low income buyers.

**Peter A. Fotinakes, M.D.**  
University of California, Irvine  
Dated July 20, 1999  
Our File Number: I-99-191

The Act does not prohibit part-time employment in the private sector. Until economic interests associated with such employment are implicated in a governmental decision that the official can affect by virtue of his status as a public official, they do not create a conflict of interest.

**Robert K. Booth**  
San Lorenzo Valley  
Water District  
Dated July 20, 1999  
Our File Number: I-99-193

A public official who lives on property where he operates a winery which is adjacent to watershed property owned by the district may not participate in a decision regarding low density use of the property.

**Claire S. Bardos**  
City of South San Francisco  
Dated August 4, 1999  
Our File Number: A-99-199

A governmental decision to add 34 residential units to an existing market of 20,000 units, and one commercial property in the City of South San Francisco is not reasonably foreseeable to have a material financial effect on the city councilmember/real estate broker with two percent of the market and no financial connection to the project.

**Anne K. Mester**  
Public Utilities Commission  
Dated July 22, 1999  
Our File Number: A-99-209

A former employer does not become a source of income simply because the group insurance policy, an employee benefit whose premiums were paid by the employer before employment was terminated, continues coverage for 31 days post-employment.

**Robert E. Davis**  
City of Glendora  
Dated July 30, 1999  
Our File Number: A-99-210

This letter discusses whether a public official has a conflict of interest in a development project located near his client, an auto body and repair shop. An appraisal evaluating the effect of the project on the client's property was conducted.

**Lori J. Barker**  
City of Chico  
Dated August 12, 1999  
Our File Number: A-99-211

The managing attorney of a nonprofit organization has a conflict of interest in decisions made by the city council to approve funding for the nonprofit organization. Segmentation and interrelated decisions are discussed.

# Advice Summaries

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## Conflicts of Interest (continued)

**Colleen C. McAndrews**  
City of Los Angeles  
Dated August 11, 1999  
Our File Number: A-99-213

The mayor's appointment of individuals to vacant spots on the Information Technology Commission will not give rise to a conflict of interest because of his spouse's interest in America Online, assuming the mayor has no financial interest in any of the appointees, there is no understanding between the mayor and an appointee as to how the appointee will vote, and the appointee has not taken a position on the issue or expressed intentions as to how he or she might vote.

**William J. Brunick**  
Mojave Water Agency  
Dated August 26, 1999  
Our File Number: A-99-214

The director has a disqualifying conflict of interest because his source of income is directly involved in the decision. Despite his conflict of interest, he may provide proper witness testimony in a judicial proceeding before his own agency.

**Aldaron Laird**  
City of Arcata  
Dated August 18, 1999  
Our File Number: A-99-217

A planning commissioner may participate in making recommendations to the city council regarding a proposal to amend the city's general plan because it will have no financial impact on his property. He also may participate in certifying a CEQA document.

**Marguerite P. Battersby**  
City of Glendora  
Dated August 20, 1999  
Our File Number: A-99-218

A city councilmember, who is an insurance broker and agent, may have a conflict of interest in a development project located across the street from his client. The official is "making a governmental decision" when he votes on whether to adopt an initiative measure, or to place the matter on the ballot for voter approval.

**Dennis D. Diver**  
City of Oroville  
Dated August 26, 1999  
Our File Number: A-99-222

The public official is an employee of a firm whose client is directly involved in a governmental decision. The client is not a source of income to the official under the "10 percent pass through" rule. A material financial effect is not reasonably foreseeable under these facts.

**Joel D. Kuperberg**  
City of Irvine  
Dated August 30, 1999  
Our File Number: A-99-223

The mayor does not have an economic interest in a trust established for her children since they are no longer dependents. In addition, she does not have an economic interest in her former spouse or his employer, even though she receives alimony.

**Jim Dickens**  
City of Arroyo Grande  
Dated September 3, 1999  
Our File Number: A-99-228

Under the facts presented in this letter, when the governmental decision affects only a clearly defined, specific and isolated site on a larger parcel, distance may be measured from the site boundaries, rather than the parcel boundaries, for purposes of choosing a materiality standard.



### Conflicts of Interest (continued)

**Judith Andrea Trice**  
City of Richmond  
Dated September 16, 1999  
Our File Number: I-99-233

The “design review board” exception to the Act’s conflict of interest rules may apply to a board whose authority is not limited to making recommendations to another agency or legislative body. An architect is a “sole practitioner” even though he retains another licensed architect as an independent contractor.

**Anthony H. Trembley**  
City of Santa Paula  
Dated September 16, 1999  
Our File Number: A-99-238

Advertisers to a newspaper which is owned 50 percent by a public official are sources of income to the official. The official may not participate in governmental decisions involving the advertisers if they have paid \$500 or more in the year preceding the decision.

### Revolving Door

**Harold Ferber**  
Health and Welfare Data Center  
Dated June 16, 1999  
Our File Number: I-99-104

Because a governmental request for proposal is integral to the execution of a governmental contract whereby specific parties will be identified, a governmental request for proposal is a “proceeding” under Government Code Section 87400(c).

**Alan J. Pope**  
California State  
Board of Pharmacy  
Dated July 8, 1999  
Our File Number: I-99-173

A former inspector with the California State Board of Pharmacy may be subject to the one-year ban if she made or participated in making governmental decisions that had a material effect on any financial interest, even though her position was not designated in the agency’s conflict of interest code.

**Robert Negrete**  
State of California  
Employment Training Panel  
Dated July 16, 1999  
Our File Number: A-99-177

The letter applies the Act’s revolving door provisions to an employee who is leaving the Employment Training Panel. The Act does not prohibit the requestor from working at any private training agency or employer, however, the permanent ban on switching sides in a proceeding prohibits him from working on the same request for eligibility determination that he worked on while at the Employment Training Panel.

**Jonathan T. Smith**  
San Francisco Bay Conservation  
and Development Commission  
Dated July 27, 1999  
Our File Number: A-99-188

A former state agency employee may act as a consultant for compensation for the same state agency.

## Advice Summaries

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### **Revolving Door (continued)**

**Joseph J. Irvin**  
**California Air Resources Board**  
**Dated September 22, 1999**  
**Our File Number: A-99-225**

The public official wants to leave state service to work for a public-private partnership created by the agency and six private companies in the auto industry. This letter discusses how the revolving door laws apply.

**Russell J. Bohart**  
**Health and Welfare Data Center**  
**Dated August 31, 1999**  
**Our File Number: I-99-231**

This letter provides advice to the former director of the Health and Welfare Data Center who wants to work for a large automation company after leaving state service. For one year, he may not lobby his former agency regarding any contract or sales transaction. In addition, he may not represent or assist his employer in any contract proceeding in which he participated as a state employee.

### **Statements of Economic Interests**

**Julia A. Moll**  
**City and County**  
**of San Francisco**  
**Dated June 30, 1999**  
**Our File Number: I-99-134**

Government Code Section 82034 offers no exception for mutual funds (diversified or otherwise) that are not registered with the Securities Exchange Commission. Accordingly, investments of \$1,000 or more made by plan participants in non-registered mutual funds must be disclosed.

**Stephen Sixt**  
**City of La Habra Heights**  
**Dated August 12, 1999**  
**Our File Number: I-99-168**

For purposes of disclosure, a business entity is doing business in the jurisdiction if it is marketing its good or services in the jurisdiction through radio or television ads which reach residents in their homes, or marketing its good or services through the Internet.

**Mattie Taormina**  
**Sesquicentennial Commission**  
**Dated September 14, 1999**  
**Our File Number: A-99-220**

The chairman of the Sesquicentennial Commission asked if the members of the Sesquicentennial Commission are obligated to file leaving office statements of economic interests because it was defunded as of July 1, 1999. Because the Sesquicentennial Commission was created by an Executive Order which set a sunset date of December 31, 2001, the members of the Commission are obligated to file statements of economic interests through that date unless they resign or another Executive Order is issued setting an earlier sunset date.

**David De Berry**  
**City of Orange**  
**Dated August 18, 1999**  
**Our File Number: A-99-221**

Members of a public committee that is solely advisory are not public officials and need not be designated in the conflict of interest code.

### Mass Mail

**Don Gartner**  
**County of Santa Cruz**  
**Dated August 27, 1999**  
**Our File Number: A-99-224**

This letter provides a discussion of the letterhead exception to the mass mailing regulation.

**Frances A. Moore**  
**City of Alhambra**  
**Dated August 24, 1999**  
**Our File Number: A-99-234**

The Chamber of Commerce newsletter that is mailed to all residents of a city is a prohibited mass mailing because it contains the photograph of an elected official, and the newsletter is funded, in part, with public funds. It is not relevant to the analysis that the official's photograph will appear in the private entity's section of the newsletter.

**Michelle Clesceri**  
**Orange County**  
**District Attorney's Office**  
**Dated September 16, 1999**  
**Our File Number: A-99-236**

Pamphlets handed out to members of the public would not violate the mass mailing prohibition.

### Gift Limits

**Art Ruthenbeck**  
**State Public Defender's Office**  
**Dated July 1, 1999**  
**Our File Number: A-99-149**

This letter analyzes gift and travel issues of international travel funded by a grant from a U.S. federal agency, where the public official gives a speech.

**Anne M. Maitland**  
**Senate Appropriations**  
**Committee**  
**Dated July 13, 1999**  
**Our File Number: A-99-158**

A fellowship offered to a legislative consultant is considered income rather than a gift since it was received in a bona fide competition.

### Lobbying

**Barbara Smith**  
**Office of the Secretary of State**  
**Dated June 15, 1999**  
**Our File Number: M-99-155**

This memorandum clarifies Government Code Section 86103(d) concerning the lobbyist ethics training. Any lobbyist who was registered for the 1997-98 legislative session and who registers for the 1999-2000 legislative session, is deemed to be renewing his or her registration and must complete the ethics course by June 30, 1999. This applies even if the lobbyist terminated his or her 1997-98 registration prior to December 31, 1998.

# Advice Summaries

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## Lobbying (continued)

**Nat B. Read**  
**Read Communications**  
**Dated June 15, 1999**  
**Our File Number: A-99-163**

An individual lobbied for a brief period of time and was unable to take the required ethics course during the time that he was registered. Because of these facts, and the fact that he has no intention of lobbying in California in the future, he is not required to take the lobbyist ethics course described in Government Code Section 8956(b).

**Michael Lojek**  
**National Rifle Association**  
**of America**  
**Dated June 23, 1999**  
**Our File Number: I-99-178**

In order to terminate his or her registration, an individual lobbyist must complete and sign the lobbyist Notice of Termination (Form 606). The Act does not allow an attorney to sign reports on behalf of the lobbyist.

**Judy Mack**  
**California Retailers Association**  
**Dated August 12, 1999**  
**Our File Number: I-99-195**

Nine members of the association who were assessed \$5,000 to fund a lobbying program have not become a lobbying coalition. Each member has not become a lobbyist employer by virtue of this special assessment, but each has become a \$5,000 filer requiring the filing of a Form 645.

## Conflict of Interest Code

**William G. Knight**  
**California State University,**  
**Channel Islands Site Authority**  
**Dated July 21, 1999**  
**Our File Number: A-99-165**

California State University, Channel Islands Site Authority is a state agency and it must follow the provisions of Regulation 18750 in adopting a conflict of interest code.

## Section 84308

**Steven R. Sanders**  
**County of San Benito**  
**Dated August 3, 1999**  
**Our File Number: A-99-197**

Under the specific facts of this situation, Section 84308 does not apply to an appointed county counsel who is running for elective office.